

To: The Fair Political Practices Commission

From: Jonathan Fuhrman  
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Date: December 11, 2007

Re: Comments on Agenda Item 8: Pre-Notice Discussion on Amending Reg. 18421.7

As a working Treasurer both for State Legislators and local officeholders, I urge you not to adopt the proposed changes to 18421.7 as proposed by staff. I believe they would present significant problems for our electronic filing systems, that they provide insufficient guidance to treasurers, and that they are excessively broad and so subject to personal interpretation that compliance would be difficult to measure or enforce.

I sympathize with the Staff's intent to respond both to recent negative publicity and to the general uncertainty as to what constitute appropriate expenditures under the "PLG" rubric, covering political, legislative or governmental purposes. These statutory definitions are inherently broad, general, and, in truth, relatively vague. Indeed, it's hard to think of any expenditure that couldn't somehow be connected to a "PLG" purpose. That, of course, defeats what some believe to be one of the fundamental thrusts of the entire political reform effort: to constrain the ability of candidates and officeholders to use contributed funds arbitrarily or capriciously, and particularly for their own personal enrichment.

Your staff's good intentions notwithstanding, I urge the Commission not to proceed toward adopting the proposed amendments.

To me, the central problem lies in the proposed requirement that for the specified types of itemized expenditures, the filings "shall state facts sufficient to demonstrate the political, legislative, or governmental purpose of the expenditure".

This generic requirement is far too vague. Compliance will be "in the eye of the beholder." No treasurer will be able authoritatively to know if a filing complies with this requirement. What sorts of facts, how detailed a description, what level of information is sufficient to demonstrate to the filing officer a PLG purpose? The regulation provides no guidance on the level of detail expected to meet this test. Any description or detail will, of necessity, be brief (we surely do not expect short essays justifying each itemized expenditure!), and thus the public and media will really not be much better informed than under the current system.

The additional details specified in subsections 1, 2, and 3 are at least more specific; explicit pieces of data are requested, so one can authoritatively determine compliance. But, together with the general justification, we now propose to require a significant amount of information attached to each itemized expenditure within this general category.

This leads to practical questions for treasurers as to how and where the information will be captured in the various electronic filing systems used. Most allow only 40 to 50 characters (not words) of free-form text associated with an individual expenditure. I don't know what the limit is on the Secretary of State's system, but I suspect they have a small amount of space allocated to the description field for itemized expenditures. Clearly, this would not be enough room to detail all the information this amendment would require.

So certainly before moving forward on this suggested amendment, I would hope that your Commission would coordinate carefully with the Secretary of State and consider the potential burden you will be placing on all the software vendors who will have to update their systems to accommodate this change.

But aside from the technical difficulties this change would introduce, and the additional burden this places on Treasurers responsible for filings, my fundamental qualm is the vagueness and uncertainty this introduces.

I believe the current system functions well and does not need to be changed. Those who fear potential abuse have only to look at the recent Los Angeles Times coverage of these issues to be assured that the media, under the existing reporting scheme, can and does indeed serve as a deterrent to abuse. I see no compelling reason why the current system needs to be tightened in a way that neither dramatically increases public insight nor significantly lessens the potential for abuse.

Thank you for considering this input from one who struggles mightily to comply with the ever more complex set of regulations that your Commission enacts.